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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 000598

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SUBJECT: ELECTION FRAUD INVESTIGATIONS - PPP AND COALITION
PARTNERS MAY FACE FURTHER LEGAL ACTION

Classified By: DCM James F. Entwistle, reason 1.4 (b) and (d).

11. (C) SUMMARY: The Election Commission of Thailand (ECT) expects to conclude its investigation into three important vote fraud cases from the December parliamentary election shortly. The cases could result in a Constitutional Court review of a motion to dissolve three parties in the governing coalition, including People's Power Party (PPP). It remains to be seen whether the evidence in the PPP case is really strong enough to result in the party's dissolution. There is also little appetite in Thai society in general for dissolving the PPP now, even among the party's opponents. If any of the parties are dissolved, only their executive members lose their seats in parliament or the government; the remaining members are simply required to join any other party. In the case of PPP, about 23 MPs and 11 ministers would lose their seats. A dissolution decision would therefore not necessarily even lead to a new general election, but it could disrupt the delicate balance in the six-party governing coalition. If the cases are referred to the Constitutional Court, the process is likely to be lengthy. END SUMMARY.

12. (C) The Election Commission of Thailand (ECT) has continued to investigate fraud allegations stemming from the December 23 parliamentary elections, and may be releasing their decisions on three important cases soon. The most significant case involves the allegations of vote buying against House Speaker Yongyuth Tiyapairat, a senior member of the People's Power Party (PPP). Yongyuth was a deputy leader of the party at the time of the alleged vote-buying (he resigned his party position after being chosen as House Speaker). The very tough provisions of the election law hold the whole party accountable, in some cases, for the actions of members of its leadership; vote fraud by members of the party executive can be the grounds for the Constitutional Court to dissolve a party. Two other parties -- Chart Thai (with 34 seats in the parliament) and Matchimathipathai (with 11 seats) -- also face possible dissolution for vote fraud by members of their executive committees.

13. (C) In mid-February discussions, the ECT Secretary-General told us that the PPP case was "very

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difficult." He complained that it had been hard to find

neutral people willing to serve on the subcommittee investigating the fraud allegations. (Note: Press leaks on the case claim there is video evidence as well as eyewitness testimony supporting the accusation that Yongyuth was involved in payments to suborn local officials in Chiang Rai, where Yongyuth was running on the party list for the northern constituency. However, there has been no official release of any of the evidence in the case. End note.)

14. (C) The subcommittee forwarded its findings to the ECT on February 19; the ECT has said publicly and privately to us that it hopes to conclude the investigation by the end of this month. According to press reports quoting one of the election commissioners, the subcommittee believed the accusations against Yongyuth. If the ECT itself also finds the allegations credible, it will forward the case to the Supreme Court to determine whether Yongyuth should lose his seat in Parliament. Yongyuth would face suspension from the Parliament as soon as the case goes to the court. Yongyuth may also face criminal prosecution under the tougher new sanctions in the election law. In addition, the ECT could decide to forward the case to the Constitutional Court to determine whether PPP should be dissolved for election abuses by a senior member.

15. (C) In our February meeting, the ECT SecGen told us that he expected the ECT to make its decision on the Chart Thai and Matchimathipathai party dissolution cases by the end of February as well. In both these cases, an executive member of the party running in a constituency was accused of vote fraud, and was red-carded. According to the ECT SecGen, the election law gave the ECT very little wiggle room in these cases. Section 103 of the law states that, "If there appears convincing evidence that the leader or member of the Executive Committee of a political party connives at...(violations of the election law), the political party

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shall be deemed as committing an act to obtain powers to rule the country by means not in accordance with ... the Constitution. In such case, the ECT shall ... file a motion with the Constitutional Court in order to dissolve such political party." The SecGen said that, as a red card had already been issued in both cases, the ECT had already determined that there was "convincing evidence" that these candidates had violated the election law (Election Law, section 103.) It therefore seemed most likely that both these cases would go to the Constitutional Court to consider dissolving the parties. The ECT SecGen added, however, that the Constitutional Court should have sufficient latitude to decide whether the transgressions really warranted dissolution.

16. (C) The Yongyuth case is slightly different. Since Yongyuth was a candidate on the party list, the ECT had been somewhat uncertain how to handle the question of disqualification. The ECT certified Yongyuth's election, with the understanding that the investigation would continue and the case be referred to the Supreme Court if the evidence warranted. (The election law specifies the ECT has the sole authority to disqualify candidates for 30 days after the election; after that, all cases must be decided by the Supreme Court.) Given Yongyuth's political clout, we presume the ECT wanted to be very careful, and probably preferred to share the heat with the Supreme Court. Thus, unlike the other two cases, the basic issue of whether Yongyuth really cheated has yet to be legally determined. If the evidence is strong, however, the PPP could face a Constitutional Court process to determine whether it should be dissolved.

17. (C) There is fairly little appetite for another major dissolution case here, as far as we can tell. Democrat Party Secretary General Sutheep Thaugsuban, who spearheaded the

party, told us earlier this month that he doubted PPP would be dissolved. The Democrat also told us that his party does not have enough money to face elections again soon, and would ideally like about two years to rebuild before they go to the polls again. "Don't be surprised if you see us cheering PM Samak on," he said. He predicted that, if the new elections were held too soon, his party would drop from 164 seats to around 80. Press and civil society commentators have also complained that dissolving parties is a bad way to handle vote fraud issues. Nonetheless, the drafters of the Constitution and the election laws intended the rules to be very tough, and to push the courts to mete out severe punishments, in the hopes that this could finally address the widespread problems of vote fraud.

18. (C) Even if these three parties were dissolved, it would not necessarily lead immediately to new elections. Only the party executive members would lose their MP or ministerial seats, as we understand the constitutional provisions. The executive member would face a five year loss of political rights, but the remaining party members in the Parliament are only required to become members of another political party within 60 days (Constitution, article 106 subpara 8). PPP learned its lesson after the dissolution of TRT; it has only about 34 members on its executive committee (compared to the 111 executives of TRT). However, 11 PPP cabinet members are also on the executive committee, including party leader PM Samak Sundaravej and SecGen/Finance Minister Surapong Suebwonglee, and around 23 are MPs. Several other ministers from Matchima and Chart Thai are also members of their parties' executive committees. Depending on how the parties reacted, dissolution could destabilize the delicately-balanced six-party governing coalition.

COMMENT

19. (C) It is still uncertain whether the evidence in the Yongyuth case will stand up to public scrutiny, and whether the high courts will really have the backbone to enforce the strict election laws if it does. Because the laws were passed by the appointed, post-coup legislature, the PPP may be able to make a case attacking their legitimacy and so give the courts a loophole to avoid making another controversial

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dissolution ruling.

110. (C) In any case, the TRT dissolution case showed that wily politicians are pretty good at getting around any legal barriers the courts or legislatures come up with. Dissolution of the three parties would be disruptive and, for the smaller parties, potentially a deathblow, but PPP would likely be able to reinvent itself yet again, provided it still had access to backing and funding from former PM Thaksin. Vigorous criminal prosecutions of vote buying and other fraud, backed up by credible investigations, might be a much more effective tool to clean up elections, but few here believe that the criminal justice system is capable of this.

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